



07 DEC 2004

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In re Application of :
VAN VEROOIJ, et al. :
Application No.: 09/308,150 :
PCT No.: PCT/NL97/00624 :
Int. Filing Date: 14 November 1997 :
Priority Date: 15 November 1996 :
Attorney Docket No.: 30394-1027 :
For: PEPTIDE DERIVED FROM AN :
ANTIGEN RECOGNIZED BY :
AUTOANTIBODIES FROM :
PATIENTS WITH RHEUMATOID :
ARTHRITIS, ANTIBODY DIRECTED :
AGAINST SAID PEPTIDE, A :
COMBINATORIAL ANTIGEN, AND :
A METHOD OF DETECTING AUTO- :
IMMUNE ANTIBODIES :

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is in response to applicants' "Petition Under 37 CFR §1.181" filed in the United States Patent and Trademark Office (USPTO) on 09 November 2004.

BACKGROUND

On 14 November 1997, applicants filed international application PCT/NL97/00624. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 June 1998, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 May 1999 (15 May 1999 was a Saturday).

On 13 May 1999, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 July 1999, USPTO mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late furnishing of the oath or declaration were required.

On 30 September 1999, applicants filed "Petition Under 37 C.F.R. §1.47(a)" accompanied by, a declaration and the fee for a two month extension of time.

On 03 November 1999, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 U.S.C. 102(e) date of 30 September 1999 and a 35 U.S.C. 371 date of 30 September 1999.

On 18 April 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice and vacating the Notification of Acceptance mailed 03 November 1999.

On 17 June 2003, applicants submitted by facsimile "Petition Decision Response and Renewed Petition Under 37 C.F.R. §1.47(a)".

On 15 July 2003, applicants submitted "Supplemental Petition Decision Response," and a petition for a one month extension of time.

On 24 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(a) dismissing applicants' petition as moot, as applicants had obtained the inventor's signature, but requiring a new declaration.

On 09 November 2004, applicants submitted a petition under 37 CFR 1.181 accompanied by copies of a petition under 37 CFR 1.47(a) that applicants claim was submitted on 24 March 2004.

DISCUSSION

Applicants indicate that the petition under 37 CFR 1.47(a) is a copy of the petition they submitted on 24 March 2004. The accompanying postcard receipt lists the petition and is date stamped 24 March 2004. The petition under 37 CFR 1.47(a) is accepted as having been received on 24 March 2004.

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1), (2), (3) and (4) have been met. The petition fee has been paid. Applicants supplied a letter from the inventor refusing to sign the declaration. The petition lists the last known address of the non-signing inventor Gerardus A. Schellekens as Tondeldoos 36; 5231 WB Den Bosch; The Netherlands. A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.



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Gerardus A. Schellekens
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The Netherlands

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PEPTIDE, A COMBINATORIAL ANTIGEN, AND A METHOD OF DETECTING AUTO-
IMMUNE ANTIBODIES

Dear Mr. Schellekens:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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